

CALIFORNIA TRANSPORTATION COMMISSION AIRSPACE ADVISORY COMMITTEE MEETING

Wednesday, April 11, 2001
12:00 p.m. – 3:00 p.m.

Los Angeles International Airport
Administration Building, Room 211
Los Angeles, CA 92612

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| 1. | Status of the Committee Membership | K. Jacobs |
| 2. | Approval of January 2001 Minutes | Committee |
| 3. | Use of Caltrans Properties for Affordable Housing | P. Neal |
| 4. | Review of Guidelines for Leasing to Public Transit Agencies | J. Conant |
| 5. | Process for Directly Negotiated Leases with Private Entities | S. Atkins |
| 6. | Request to Amend Lease Terms-Ravel Properties | P. Schultze |
| 7. | Directly Negotiated Leases-Lessee Qualifications | S. Atkins |
| 8. | Airspace Bi-Annual Report | B. Wilson |
| 9. | Discussion to Set Future Meeting Schedule | B. Wilson |

Meeting Contact:
California Transportation Commission
1120 "N" Street, MS 52
Sacramento, CA 95814
916/654-7179 (Kathie Jacobs)

CALIFORNIA TRANSPORTATION COMMISSION AIRSPACE ADVISORY COMMITTEE MEETING

Video Conference
District 12 Office Building
3347 Michelson Drive
Building 3355 - 4th Floor, Suite 100
Irvine, CA 92612

And
Video Conference
District 4 Office Building
111 Grand Avenue, 15th Floor
Oakland, CA 94111

January 9, 2001

MINUTES

The meeting of the California Transportation Commission Airspace Advisory Committee, was called to order at 11:20 a.m. on January 9, 2001, via video conference at two locations, Caltrans District 12 and Caltrans District 4.

Those in attendance were as follows:

District 12 Video Conference Area:	A. Auer - Chair, J. Glassmoyer, M. Smith, G. Moss
District 4 Video Conference Area:	N. Gruen, W. Greig, R. Payne
Commission Member:	R. Kozberg (attending in Dist. 12)
Commission Staff:	K. Jacobs (attending in Dist 4)
Caltrans Staff:	S. Atkins, B. Wilson, P. Schultze, S. Ikeda, G. Watkins, B. Macpherson, J. Conant (attending in Dist 4), and John Brown (attending in Dist 12)
Members Absent:	M. Green and B. Hauf

The meeting adjourned at 1:00 p.m. (due to video equipment shutdown).

Proceedings:

Item 1. Introduction of New Members/Staff

Scott Atkins, Caltrans HQ Right-of-Way Program, started the self-introduction of all persons present for the video conference.

Item 2. Approval of October 2000 Minutes

The minutes were presented for approval. Committee member Gruen moved to approve the minutes. Committee Member Smith seconded the motion, which carried 5-0 (members Green and Hauf were absent).

Item 3. Airspace-Change in Terms/Conditions Ravel (03-SAC-050-0011)

Peter Schultze, Caltrans HQ Right-of-Way, presented and requested that the committee recommend to the Commission a 30-year extension beyond the current 2015-year lease term and replace the current standard condemnation clause with a future transportation project clause. Committee member Greig asked about the history of the transportation clause and asked if the Department had ever had an opportunity to evoke this clause. Mr. Schultze stated that the clause was developed in the 1990's and had been evoked in the past. In response to a question, Mr. Schultze stated that the only compensation for a transportation project causing a loss of lease area was a pro-rated reduction in rent. Committee Member Smith moved to recommend to the Commission this win-win lease. Committee Member Greig seconded the motion, which carried 5-0 (members Green and Hauf were absent).

Item 4. Airspace-Request to Directly Negotiate CRV Enterprises (10-SJX-005-0201, 0300xz)

Gordon Watkins, Caltrans Central Region Right-of-Way, presented and requested that the committee recommend to the Commission that Caltrans directly negotiate a 30-year lease with CRV Enterprises, Inc of Stockton. Committee Member Greig asked why it is proposed to plot the state and private parcels together. Mr. Watkins said it is believed to be in the best interest of the State to do so. Committee Member Greig asked how does the Department know other parties are not interested in leasing these parcels. Mr. Watkins stated that the Department's records show there have been no proposals received in at least 10 years. Committee Member Payne indicated she was concerned there may be interest by other nearby property owners. Committee Member Gruen added the Department should consider bidding the parcel, rather than leasing by direct negotiations. The Committee discussed how the highest best use value would be determined and that the Committee will need to know whom the principles are on each request to directly negotiate in order to prevent any conflict of interest. Committee Member Payne suggested that the Department should have some standard operating procedures in place that would allow the Department to present to the Committee a full and complete accounting of the entity requesting the lease. Committee Member Payne asked if the Department knows who owns stock in CRV Enterprises. Committee Member Gruen moved to have the Department return at a future meeting once it had the opportunity to complete further investigation regarding the adjoining parcels and the company. Committee Member Glassmoyer seconded the motion, which carried 5-0 (members Green and Hauf were absent).

Action: The Department should develop standard guidelines for background information on proposed lessees for items presented to the committee

Item 5. Excess Land-Approval of Direct Sale (over \$1.0 million) The Irvine Company (DD063768-01-01, 02)

Steve Ikeda, Caltrans HQ Right-of-Way, presented and requested that the Committee recommend to the Commission that Caltrans sell approximately 11.823 acres in excess land for direct sale (by exchange) to the Irvine Company. The Committee discussed the wide range in wetland appraisals and that the value is typical of similar mitigation properties statewide. Also discussed was why the State didn't acquire record title at the time of the City of Irvine's donation of the \$14 million worth of property to the State approximately 10-years ago. Mr. Ikeda clarified that title will be transferred for all the separate properties including the previously donated property as part on the one escrow. Committee members requested that Caltrans include maps with the meeting material packages for all parcels and subject items being discussed. Committee member Payne moved to accept the direct sale of land to the Irvine Company. Committee member Gruen seconded the motion, which carried 5-0 (members Green and Hauf were absent)

Item 6. Excess Lane-Approve of Direct Sale (over \$1.0 million) City of Newport Beach (DD040766-01-01, 02)

Steve Ikeda, Caltrans HQ Right-of-Way, presented and requested that the Committee recommend to the Commission that Caltrans sell approximately 15 acres of vacant land for direct sale to the City of Newport Beach. The purchase price of \$4,185,000 is based on an appraisal with a date of value of March 2000, and the transaction would include an 18-month option. The Committee discussed the March 2000 appraisal and that prices could have changed in 10 months. Further, the appraiser speculated that there was a 4-year holding period until the property could be developed to its highest and best use. Committee member Gruen asked what is the discount rate for the property. Mr. Ikeda answered 20%. The Committee agreed that this type of information should be included in the reports submitted to members prior to the meeting. Discussion continued on the State waiting until the parcel had access before selling and Committee Member Payne asked why the Department was moving forward now. Committee Member Gruen stated that waiting to sell may be in the State's best interest. Mr. Ikeda indicated the Department is under considerable pressure to market excess land as quickly as is reasonable. Committee member Payne moved to have the Department gather additional information regarding current fair market value and discount rates before bringing this item back to the Committee. Committee Member Gruen seconded the motion, which carried 5-0 (members Green and Hauf were absent).

Item 7. Airspace-Proposed CTC Resolution Leasing of Airspace for Public Mass Transit Facilities

Scott Atkins, Caltrans HQ Right-of-Way, presented and requested that the Committee recommend to the Commission approval an amended "G" Resolution, which provides for the Procedure for Leasing Airspace to Public Entities. The amendment will provide that the Department shall submit all leases or other written agreements with public entities for mass transit facilities, for less than market rent, to the Commission for approval.

Mr. Atkins explained, that at the October 11, 2000 meeting of the Committee, a proposal by the Department was submitted which encourages mass transit agencies to utilize

airspace for new mass transit facilities that will reduce congestion on our highways. The original proposal included a delegation to the Department to enter into these agreements without specific CTC approval utilizing a two-tiered rental proposal. The rent for direct congestion relief projects was to be a nominal amount, and indirect congestion relief was to be 50% of fair market rent. The Committee did not recommend the delegation and indicated a 50% reduction in rent for indirect congestion relief projects was not in order.

Mr. Atkins explained the current proposal removes the request for the delegation, retains the nominal rent for direct congestion relief projects, and provides the lease rate may be less than appraised fair market rent for projects which result in indirect congestion relief. He added that this proposal has the potential to expand the Committee's and CTC's role, related to the Airspace Program, beyond the historical list of airspace parcels to areas within the median of the highway and possibly other areas within the highway right of way.

Mr. Atkins emphasized this proposal is for new congestion relief projects. Commissioner Kozberg clarified what a "G" Resolution was by adding that "G" Resolutions are typically Commission policy resolutions either providing policy direction or delegation to the Department.

Committee member Gruen moved to make a recommendation to the Commission to approve the resolution. Committee Member Greig seconded the motion which carried 5-0 (Members Green and Hauf were absent)

Item 8. Fiber Optic Program Discussion

Peter Schultze, Caltrans HQ Right-of-Way, presented the item stating that the Department doesn't currently have a Fiber Optic Program, however, should it be decided to have one the Airspace Program is where it should be. Typically, it has been policy to keep utilities out of the right of way but fiber optics have been determined to be a safe utility in that it doesn't burn, explode, etc. and could be quite lucrative. The Committee discussed that it would probably behoove the Department to do further research regarding fiber optics in the State right of way by using a technical person familiar with costs to install and what types of charges are being incurred by other agencies (i.e., railroads). It was agreed that the Department should get additional information since there hasn't been a clear direction from the administration regarding fiber optics. Committee member Greig suggested each member submit names, if known, to the Department of those people working in this area to determine pros and cons regarding the issue.

Item 9. Discussion to Set Future Meeting Schedule

This item was not presented, as the video equipment shut off prior to the discussion.

Memorandum

To: CHAIR AND MEMBERS
Airspace Advisory Committee

Date: January 31, 2001

File: EXCESS LAND
Airspace Advisory
Committee

From: **DEPARTMENT OF TRANSPORTATION**
RIGHT OF WAY PROGRAM
Mail Station 37

Subject: Use of Caltrans' Properties for Affordable Housing

The California Transportation Commission (CTC), at its January 17-18, 2001, meeting, asked the Airspace Advisory Committee (AAC) to re-examine the issue of affordable housing opportunities related to Caltrans' airspace and other properties.

This subject was initially discussed by the AAC at its October 11, 2000, meeting but was focused on the use of airspace directly above or below freeways. Since that time, Patricia W. Neal, Deputy Secretary for Housing in the Business, Transportation and Housing Agency, has expanded the review of Caltrans' properties for affordable housing to include excess parcels and underutilized properties including park and ride lots and maintenance station sites.

On January 17, 2001, Ms. Neal made a presentation to the CTC and discussed the possibility of developing affordable housing on excess parcels in Upland and Hayward and park and ride lots in the Los Angeles basin. Ms. Neal reiterated that existing law requires Caltrans to sell excess land at current appraised market value or lease airspace at current market rent.

CTC members' questions focused on the feasibility of developing affordable housing on Caltrans' sites which must be sold or leased for market value and where development would be at market cost. The discussion ended with the suggestion that the AAC re-examine the issue of affordable housing on Caltrans excess parcels and underutilized facilities to see if the AAC had any suggestions as to how such sites might become a viable element of an affordable housing development.

As a matter of additional information, Streets and Highways Code Section 118(a)(1) does allow the following favorable financing terms when improved and unimproved real property is sold or exchanged for the purpose of housing for persons and families of low or moderate income:

- A payment period not to exceed 40 years;
- A down payment of at least 5 percent;
- An interest rate equal to the average rate returned by the Pooled Money Investment Board for the past 5 fiscal years immediately preceding the year in which the payment is made;

- The above terms only apply if the proposed development or sale does not qualify for financing from other sources and if the financing makes feasible the provision of low and moderate-income housing.

It is Caltrans' policy that subordination of the Department's deed of trust is limited to easements required by public utilities or public agencies in connection with a public project.

The CTC and the Department would greatly appreciate your input regarding the feasibility of developing affordable housing on Caltrans' properties. This matter will be on the AAC's April 11, 2001, meeting agenda for further discussion.

Original Signed by

D. GENE MATTOCKS, Chief
Office of Real Property Services
Right of Way Program

Memorandum

To: CHAIR AND MEMBERS
Airspace Advisory Committee

Date: March 27, 2001

File: AIRSPACE
General

From: DEPARTMENT OF TRANSPORTATION
DIVISION OF RIGHT OF WAY
Mail Station 37

Subject: Process for Directly Negotiated Leasing with Private Entities

SUMMARY AND DISCUSSION:

The Airspace Advisory Committee (AAC), at your meeting on October 19, 1998, approved on a trial basis, a new process to approve directly negotiated Airspace leases with private entities. Historically, leases with private parties are leased through a public bid process, which requires no approval by the AAC or California Transportation Commission (CTC). However, in certain circumstances it is felt that it will be in the State's best interest to directly negotiate the lease. In those cases the AAC will recommend proceeding with direct negotiations, recommend approval of the terms and conditions of the directly negotiated lease to the CTC, and the CTC will approve the lease.

The procedure that has been in use since the October 1998 AAC meeting provided that the department could follow a new process, which is described as follows:

1. Lease less than \$5,000 per month, non-complex real estate issues, standard terms and conditions:

No AAC action, CTC approval to execute lease agreement.

2. Lease less than \$5,000 per month, non-complex real estate issues, non-standard terms and conditions:

No AAC approval to directly negotiate, but AAC recommends approval of terms and conditions, CTC approval to execute lease agreement.

3. Lease less than \$5,000 per month, includes complex real estate issues, standard terms and conditions:

AAC approves permission to directly negotiate, AAC does not review terms and conditions, CTC approval to execute lease agreement.

4. Lease over \$5,000 per month:

AAC concurrence to directly negotiate, and approval of terms and conditions, CTC approval to execute lease agreement.

Since the inception of this new process, there have been two leases processed under this new approach.

The AAC at the October 1998 meeting expressed concerns about the proposed process including:

1. Lack of definition of terms such as "complex" and "non -complex".
2. Insurance that the approval parameters were sufficient to protect the state's interests.

Authorization was obtained from the Committee on a trial basis.

CURRENT SITUATION:

The Department continues to use the public bid as the primary method of leasing Airspace parcels. The new process that was approved on a trial basis by the AAC has provided some reduction in time in presenting proposed leases to the CTC. However, the reduction in time is offset by not having valuable input from the AAC.

RECOMMENDATION:

It is recommended the AAC agree to terminate the trial process, as described above, and return to the historical approach which will be as followed on directly negotiated Airspace leases with private entities:

AAC consent to direct negotiations, and recommendation of approval of terms and conditions.

CTC approval to execute lease agreement.

It is anticipated the process will be easier to interpret, and provide an opportunity for AAC input. This action will have no impact on the public bid process for leasing Airspace.

SCOTT ATKINS, Chief
Office of Airspace and Outdoor Advertising
Division of Right of Way

Memorandum

To: CHAIR AND MEMBERS
Airspace Advisory Committee

Date: March 27, 2001

File: AIRSPACE
General

From: DEPARTMENT OF TRANSPORTATION
DIVISION OF RIGHT OF WAY
Mail Station 37

Subject: Lessee Information - Directly Negotiated Leases with Private Entities

SUMMARY AND DISCUSSION:

During the discussion at the January 9, 2001 Airspace Advisory Committee (AAC) meeting, the AAC recommended, in cases where the department was requesting directly negotiated leases with private entities, that certain information be available regarding the proposed lessee. This item is being presented to get input from the committee on the type and scope of information that is appropriate. I am suggesting that at a minimum the following information be available to the committee:

1. Individual or company name, with the names of principles in the company or corporation.
2. Parent corporation, if any.
3. Description of the business operations.
4. A financial statement or other information regarding the financial viability of the person or business entity to do business on the Airspace parcel.

I'm looking forward to your comments on this proposal.

SCOTT ATKINS, Chief
Office of Airspace and Outdoor Advertising
Division of Right of Way

**CALTRANS
RIGHT OF WAY PROGRAM
AIRSPACE & TELECOMMUNICATIONS**

**AIRSPACE ADVISORY COMMITTEE
BI-ANNUAL PROGRESS REPORT
Fiscal Year 2000/2001 through December 31, 2000**

AIRSPACE STATEWIDE TOTALS-INCOME/EXPENSES**December 31, 2000**

		94-95	95-96	96-97	97-98	98-99	99-00	00-01*
North Region								
<i>Airspace Income</i>		\$1,244,520	\$1,070,056	\$1,290,013	\$1,256,891	\$1,676,252	\$1,456,315	\$702,331
<i>Wireless Income</i>								\$12,917
<i>Expenses</i>		\$93,542	\$145,799	\$94,466	\$98,097	\$104,811	\$119,707	\$108,812
<i>Net</i>		\$1,150,978	\$924,257	\$1,195,547	\$1,158,794	\$1,571,441	\$1,336,608	\$606,436
District 4								
<i>Airspace Income</i>		\$6,339,970	\$6,989,579	\$7,007,878	\$7,622,429	\$11,846,925	\$10,533,423	\$5,661,690
<i>Wireless Income</i>								\$767,622
<i>Expenses</i>		\$319,931	\$445,391	\$450,156	\$459,824	\$483,344	\$527,903	\$295,016
<i>Net</i>		\$6,020,039	\$6,544,188	\$6,557,722	\$7,162,605	\$11,363,581	\$10,005,520	\$6,134,296
Central Region								
<i>Airspace Income</i>		\$144,115	\$146,681	\$150,362	\$153,900	\$191,313	\$218,062	\$68,052
<i>Wireless Income</i>								\$0
<i>Expenses</i>		\$16,806	\$21,795	\$30,909	\$43,851	\$56,571	\$35,934	\$29,514
<i>Net</i>		\$127,309	\$124,886	\$181,271	\$110,049	\$134,742	\$182,128	\$38,538
Southern Region								
<i>Airspace Income</i>		\$2,874,430	\$3,093,264	\$2,760,694	\$2,994,830	\$3,963,324	\$3,637,093	\$1,734,679
<i>Wireless Income</i>								\$162,736
<i>Expenses</i>		\$512,105	\$550,625	\$427,732	\$400,949	\$452,683	\$432,641	\$108,685
<i>Net</i>		\$2,362,325	\$2,542,639	\$2,332,962	\$2,593,881	\$3,510,641	\$3,204,452	\$1,788,730
District 11								
<i>Airspace Income</i>		\$1,336,205	\$1,075,548	\$890,340	\$975,470	\$1,301,755	\$1,067,848	\$594,206
<i>Wireless Income</i>								\$26,438
<i>Expenses</i>		\$299,635	\$255,009	\$108,701	\$84,302	\$121,780	\$216,189	\$145,294
<i>Net</i>		\$1,036,570	\$820,539	\$781,639	\$891,168	\$1,179,975	\$851,659	\$475,350
Statewide								
<i>Airspace Income</i>		\$11,939,240	\$12,375,128	\$12,099,287	\$13,003,520	\$18,979,569	\$16,912,741	\$8,760,958
<i>Wireless Income</i>								\$969,713
<i>Expenses**</i>		\$1,558,995	\$1,611,255	\$1,286,571	\$1,373,341	\$1,597,410	\$1,680,241	\$1,065,815
<i>Net</i>		\$10,380,245	\$10,763,873	\$10,812,716	\$11,630,179	\$17,382,159	\$15,232,500	\$8,664,856

NOTES:

*Income figures for FY 2000-2001 are through 12/31/2000. Past year income totals are yearly totals of airspace and wireless income combined.

**Statewide expenses include HQ overhead for airspace activities.				
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DEVELOPMENT LEASES - ACTIVE and ONGOING (12/31/2000)

NO.	AIRSPACE SITE	PROPOSED TENANT	CURRENT STATUS	DATE LAST PRESENTED TO AAC
1.	11-SDX-005-0015	THRIFTY CAR RENTAL	DIRECT NEGOTIATIONS APPROVED	JUNE 2000
2.	12-ORA-005-0087	IRVINE SPECTRUM	NEGOTIATIONS CONTINUING	AUGUST 1999
3.	11-SDX-805-0002	BRAGG CRANE SERVICE	ONE YEAR EXTENSION APPROVED BY AAC	JUNE 2000 OCTOBER 1998
4.	04-SFX-101-0023	FOB TRADING CORP.	NEGOTIATIONS CONTINUING	APRIL 1998
5.	03-SAC-51-0004	INTER-MODUL TRANSIT PARTNERS (BUZZ OATES)	ONE YEAR EXTENSION APPROVED BY AAC	JUNE 2000 JANUARY 1997

DEVELOPMENT LEASES - WITHDRAWN OR INACTIVE (12/31/2000)

NO.	AIRSPACE SITE	PROPOSED TENANT	CURRENT STATUS	DATE LAST PRESENTED TO AAC
1.	04-ALA-880-0052,53	REYNOLDS AND BROWN	TRANSACTION WITHDRAWN - LESSEE DID NOT WANT TO PROCEED.	OCTOBER 1996
2.	07-LA-210-0031	HOLQUIST EQUITY	DEVELOPER WITHDREW.	OCTOBER 1996
3.	11-SD-76-0001	ARCO	ARCO DID NOT ACCEPT 5-YEAR LEASE TERM.	NOVEMBER 1995

LEASES APPROVED BY CTC -AAC APPROVAL NOT REQUIRED (12/31/2000)

NO.	AIRSPACE SITE	PROPOSED TENANT	CURRENT STATUS	DATE LAST PRESENTED TO CTC
1.	12-ORA-073-0001	MERCEDES-BENZ OF LAGUNA NIGUEL	TO BE PRESENTED AT THE MARCH 2001 CTC MEETING	MARCH 2001
2.	07-LAX-010-0070 07-LAX-110-0006	MORVIS CORVIS CORPORATION	LEASE NOT EXECUTED BY LESSEE	JULY 2000

DEVELOPMENT LEASES - LEASE EXECUTED (12/31/2000)

NO.	AIRSPACE SITE	PROPOSED TENANT	DATE LAST PRESENTED TO AAC
1.	04-SFX-080-0014	SILICON VALLEY BANK	OCTOBER 1998
2.	11-IMP-086-0001	RIVERA WINERY	JULY 1998
3.	11-SDX-005-0001	PARK AND RIDE INC.	APRIL 1998
4.	07-LA-105-5	HORNET	JANUARY 1998
5.	11-SDX-005-0023	ISLANDS RESTAURANT	JANUARY 1998
6.	11-SDX-015-0011	PRESLEY HOMES	JANUARY 1998
7.	11-SDX-005-0017	AVENTINE OFFICE COMPLEX	OCTOBER 1997
8.	04-CC-880-01	POINT RICHMOND AND ASSOCIATES	JULY 1997
9.	12-ORA-005-086	DISCOVERY SCIENCE CENTER	MAY 1997
10.	03-SAC-51-04	INTER-MODUL TRANSIT PARTNERS	APRIL 1997
11.	04-SOL-80-2	TOYOTA OF VALLEJO	APRIL 1997
12.	04-SOL-780-01	ANASTASIOS	JANUARY 1997
13.	07-LA-121	GLOBE TIRE	OCTOBER 1997
14.	11-SD-78-3	MCCLEAN AUTOMOTIVE	OCTOBER 1997
15.	07-LA-5-21	A.T.S. NORTHEAST TOWING	JUNE 1996
16.	11-SD-5-40	ARAMARK	JUNE 1996
17.	11-SD-8-14	DREW FORD	JUNE 1996
18.	11-SD-163-4	VALLE DELA REINA	JUNE 1996
19.	11-SD-163-5	JOHN HANCOCK	JUNE 1996
20.	11-SD-5-7	PREBYS	APRIL 1996
21.	11-SD-76-19	MC BAIN	APRIL 1996
22.	07-LAX-405-0065,66,67	J.PAUL GETTY TRUST	JANUARY 1996
23.	07-LAX-005-0012,13	LAWRY'S FOODS (CONOPCO)	JANUARY 1996

EXCESS LAND-MAJOR AND SENSITIVE TRANSACTIONS (12/31/2000)

NO.	DIST	DIRECTORS DEED	PROPERTY	CURRENT STATUS
1.	NR	DD004728-01-01	65 TH /FOLSOM MAINTENANCE STATION - SACRAMENTO	SOLD AT PUBLIC AUCTION FOR \$875 THOUSAND TO 5 TH HIGHEST BIDDER- RECORDED MARCH 2001
2.	4	DD038890-01-01	160 HARRISON STREET	SOLD 3/2000, \$49.0 MILLION
3.	4	DD014880-01-01	FOSTER CITY	ENVIRONMENTAL HOLD AS POTENTIAL WETLANDS MITIGATION SITE.
4.	4	DD000115-01-02	SAN JOSE PARK AND RIDE	DISTRICT PROPOSES TO INCORPORATE INTO THE R/W TO EXPAND EXISTING PARK & RIDE LOT
5.	4	DD048604-01-01	WALNUT CREEK OFFICE BUILDING	NOW USED AS 680/24 IC CONSTRUCTION OFFICE. TO BE SOLD AT PUBLIC AUCTION UPON PROJECT COMPLETION
6.	CR	DD075100-01-01	CITY OF CLOVIS	NOT AVAILABLE FOR SALE UNTIL PROJECT COMPLETION (2/01). CITY HAS REQUESTED RIGHT TO BUY
7.	SR	DDB9750-01-01	RUSTY PELICAN	SOLD 11/99, \$2.05 MILLION
8.	SR	VARIOUS	SR 710-ROBERTI BILL PROPERTIES	ONGOING SALES
9.	SR	DDA01986-01-03	DISTRICT 8 OFFICE BUILDING - SAN BERNARDINO	UNDERGOING ENVIRONMENTAL REVIEW. SALE APPROVED IN JUNE 2000 BY AAC.
10.	11	DD022481-01-02	CITY OF POWAY	DIRECT SALE TO CITY REDEVLOPMENT AGENCY-RECORDED DECEMBER 2000

Memorandum

To : CHAIR AND MEMBERS
Airspace Advisory Committee

Date : March 27, 2001

File No. AIRSPACE
General

From : DEPARTMENT OF TRANSPORTATION
MASS TRANSPORTATION PROGRAM M.S #39

Subject : Airspace Agreements for Public Entities with Mass Transit Facilities Guidelines

SUMMARY AND DISCUSSION:

The purpose of this item is to request the Airspace Advisory Committee (AAC) to review the attached guidelines and submit it the California Transportation Commission (CTC) for their review.

The Airspace Advisory Committee (AAC), at your meeting on January 9, 2001, approved a resolution to implement procedures for leasing airspace to public entities at less than fair market rent. An amendment to CTC Resolution G-6 provided that all leases and other written agreements with public entities for mass transit facilities for less than fair market rent, will require California Transportation Commission (CTC) approval. On February 22, 2001, the CTC approved this resolution (G-01-E2).

Highlights of the guidelines include the following:

1. Other written agreements will be utilized as well.

Present use of other written agreements (joint use agreements, cooperative agreements or encroachment permits) for fixed guideways and bus stops will be utilized and complement these guidelines.

2. Dialogue and field trips with the Department:

Applicants are strongly encouraged to meet and conduct field trips with the District Transit Representative and District Airspace Representative to determine the best airspace locations and agreements for new mass transit facilities.

3. \$2,500 application fee, submittal to DARC, appraisal, and FHWA approval:

Applicants will submit applications with a \$2,500 fee to their District Region Airspace Office. The District Airspace Review Committee (DARC) will review the application. If approved by the DARC, applicants will be asked to do an appraisal prepared with instructions to the appraiser agreed by the Department and applicants. Headquarters Right of Way will seek approval from the Federal Highway Administration.

4. Recommendations will be made:

The District Transit Representative and Mass Transportation Program will provide recommendations to the applicants to improve their applications.

5. AAC Action to the CTC

Applications will then be submitted to the AAC for review and recommendation to the CTC for review and approval.

6. Application components:

Applications will seek information on project site benefits, other sites rejected, project scope and transit patron benefits.

7. Congestion relief justification:

Applicants will also be asked to describe how their projects will positively result in congestion relief.

8. Restrictions to other sites and other conditions:

Restrictions of other sites, if they substitute the use of their property to the Department's property. In addition, applicants will be asked to comply with several conditions in their written agreements to ensure the adequate protection of the Department's highway facilities.

CURRENT SITUATION:

The Regional Planning Transportation Planning agencies and the transit agencies have informed the Department that it is most important to provide low and no cost leases or other written agreements and to minimize bureaucracy. The loss to the Public Transit Account is less important than making this program work. Further comments may be forthcoming following their March 28, 2001 meeting.

RECOMMENDATION:

The Department requests the AAC to recommend to the CTC for their review the attached guidelines, which will enable the Department to proceed with the implementation of the procedures for leasing airspace to public entities per Resolution 1(G-01-12).



JAMES D. CONANT, Chief
Office of Program Development
Mass Transportation Program

Attachment

Draft, April 5, 2001

CALTRANS

**AIRSPACE AGREEMENTS FOR PUBLIC ENTITIES FOR NEW
MASS TRANSIT FACILITIES FOR TRAFFIC CONGESTION
RELIEF**

GUIDELINES

**REVIEWED BY THE CALIFORNIA TRANSPORTATION
COMMISSION
(INSERT DATE)**

**California Department of Transportation
Right of Way Program
Mass Transportation Program**

2001

This information and application is available to download from the Caltrans Mass Transportation Program's website at <http://www.dot.ca.gov/hq/MassTrans/airspace.htm>

Summary

The California Department of Transportation (Caltrans) announces the solicitation of applications under the Airspace Agreements for Public Entities for New Mass Transit Facilities for the Traffic Congestion Relief. The Department is promoting Chapter 513 of the 1992 Statutes, effective January 1, 1993, which added Section 104.12(b) to the Streets and Highway Code. This would make airspace available to public entities for new mass transit facilities for less than fair market rent. These guidelines include all of the information needed to apply for the program.

Definition of Airspace

Airspace can be defined as property within the right of way limits of an existing operating highway that is capable of other development without interference with the operation and foreseeable future expansion of the transportation corridor without endangering the traveling public. It may consist of the following: surface rights under a viaduct, space above traveled lanes, space within a loop of an interchange, space between main lanes and on and off ramps, and areas in cut or filled slopes.

Application Submission Instructions

Prior to submitting applications, applicants are strongly encouraged to meet and conduct field trips with the District Transit Representative and District Airspace Representative to determine the best airspace locations and agreements for new mass transit facilities within the State Highway System.

Applicants will need to submit a completed application, with a \$2,500 application processing fee to their respective Caltrans District Office. An additional appraisal fee may also apply. See Appendix B for District Transit Representative information. Please make your certified check payable to the California Department of Transportation.

Caltrans will accept communications and project applications for this program electronically (by fax or e-mail). When submitting an application by e-mail, applicants need to follow up by sending an official signed copy within five working days.

For Further Information

Applicants need to contact their respective Caltrans District Transit Representative. Questions on policy issues and interpretation of program guidelines should be directed to:

Jim Conant
Senior Transportation Planner
Caltrans Mass Transportation Program
P.O. Box 942874, MS 39
Sacramento, CA 94274-0001
916-654-9842
Jim_Conant@dot.ca.gov

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I. Background

At the request of the California Transportation Commission (CTC), Caltrans has been directed to establish guidelines to implement the Airspace Agreements for Public Entities for New Mass Transit Facilities for Traffic Congestion Relief. The Commission is to review these guidelines and to consult with Caltrans and representatives of regional and local agencies in developing these guidelines.

Chapter 513 added Section 104.12 (b) to the Streets and Highways Code, giving Caltrans, in this case, broad discretion regarding charging rent for transit related uses.

“ Notwithstanding subdivision (a) in any case, where sufficient land or airspace exists within the right-of-way of any highway, constructed in whole or in part with federal-aid highway funds, to accommodate needed passenger, commuter, or high-speed rail, magnetic levitation systems, and highway and non-highway public mass transit facilities, the department may make land or airspace available, with or without charge, to public entities for those purposes, subject to any reservations, or conditions that it determines necessary to ensure adequate protection to the safety and adequacy of highway facilities and to abutting or adjacent land uses.”

The above state legislation followed enactment of a nearly identical federal statute [23 United States Code Section 142(g)] as part of the 1991 Intermodal Surface Transportation Enhancement Act (ISTEA). Subsequent federal regulations [23 Code of Federal Regulations Sections 710.405 – 710.407 and 810.2, et seq.] elaborate on the process for implementing the federal statute.

Historically, Caltrans has allowed public mass transit agencies to place fixed guideways within state highway rights of way under joint use, cooperative agreements or encroachment permits, but has charged fair market rent for the lease of airspace for other mass transit facilities, such as parking lots for transit patrons and the storage of buses. The above state statute, however, gives, Caltrans broad discretion regarding charging rent for transit related uses.

I. Background (Continued)

Annually, income from airspace on the state highway system produces \$20 million to the State Highway Account, which also feeds the Public Transit Account, which all public transit agencies draw on. It is estimated that this new program will decrease this annual income \$3-5 million from \$20 million a year.

Hence, Caltrans, at the December 5-6, 2000 meeting of the CTC, presented a proposal for reduced rent related to new congestion relief public mass transit projects. The purposes of the Airspace Agreements for Public Entities for New Mass Transit Facilities for Traffic Congestion Relief are two-fold: 1) to relieve congestion and improve mobility on the State Highway System; 2) to encourage new congestion relief projects. This is in keeping with Caltrans' continuing and growing efforts to relieve congestion and improve mobility on the State Highway System, and to encourage new congestion relief projects.

For the mass transit facilities that result in positive congestion relief, the lease rate will be a nominal amount sufficient to cover the Caltrans' administration costs.

It needs to be noted that the present use of joint use or cooperative agreements or encroachment permits for mass transit projects (longitudinal and transverse alignments of fixed rail, bus stops) be utilized as much as possible and complement these guidelines. This was discussed at the February 8, 2001, Advisory Group meeting of transit agencies.

At the December 5-6, 2000 CTC meeting, the CTC requested the Department to obtain Airspace Advisory Committee's (AAC) approval of a proposed resolution implementing this process, which replaces CTC Resolution G-6. Hence, on January 9, 2001, the Department obtained approval from the AAC with a recommendation to the CTC for approval of the resolution. This resolution provides Procedures for Leasing Airspace to Public Entities. An amendment to CTC resolution G-6 provides that all leases or other written agreements with public entities for mass transit facilities, for less than fair market rent, will require specific CTC approval. On February 22, 2001, the CTC approved this resolution (G-01-12).

These guidelines become effective upon review by the CTC with input and review from the AAC. The CTC may amend these guidelines at any time after first giving notice of the proposed amendments and conducting one public hearing. Other minor changes will be done at the staff level.

II. Eligible Applicants

Eligible applicants include public mass transit agencies that operate mass transit services, including rail projects in the State of California.

III. Eligible Projects

Eligible projects for this program include new bus routes, a new or expanded park and ride lots for mass transit patrons, downtown commuter bus parking facility and other mass transit facilities.

IV. Current Airspace Inventory

There are 711 airspace parcels within the State Highway System, with the majority of the locations in the Greater Bay Area. Other usable airspace sites may not be inventoried. If additional airspace sites are identified, they can be added to the inventory and leased to applicants. The majority of inventoried airspace sites are located under freeway viaducts and bridges or at interchange locations. Contact your local District Airspace Representatives for specific information on the inventory in your location.

District	Area	Number of Airspace Parcels
District 3	Greater Sacramento Area	74
District 4	Greater Bay Area	321
District 6	Fresno	2
District 7	Greater Los Angeles	191
District 8	San Bernardino	11
District 10	Greater Stockton Area	5
District 11	San Diego	74
District 12	Orange County	33

V. Application Review Process

Prior to submitting applications, applicants are highly encouraged to meet and conduct field trips with the District Transit Representative and District Airspace Representative to determine the best airspace locations and agreements for new mass transit facilities along the State Highway System. Through this dialogue, Caltrans will provide applicants the following helpful information: 1) inventory of vacant airspace sites; 2) the most beneficial agreement(s) for the airspace for the particular project use; and 3) adjacent property.

Applicants will then submit completed applications and a \$2,500 application fee to their respective District Region Airspace Office. The District Airspace Review Committee (DARC) will then review the applications to ensure the proposed use and improvements will not adversely affect highway safety nor interfere with operations. Any mitigation will be addressed with applicants. DARC will also hear whether the applicant is seeking the airspace at fair market rent or less than fair market rent. The DARC is committee composed of Caltrans representatives from Traffic Operations, Right of Way, Landscape Architect, Project Development, Maintenance, Structures, Hydraulics, and the State Fire Marshall. Other programs may be included if the program is affected by the proposed use.

If the applications are approved by the DARC, an appraisal needs to be prepared either by Caltrans or the applicant at Caltrans' option. The appraisal will be subject to Caltrans' approval. If applicants are seeking the airspace at less than fair market rent, copies of the applications will be sent to the District Transit Representative, Mass Transportation Program, and the Headquarters Right of Way Office of Airspace. The District Transit Representative and the Mass Transportation Program will then work together to provide recommendations to the applicants, if needed, to improve the applications.

V. Application Review Process (Continued)

Headquarters Right of Way Office of Airspace will then consult with the Federal Highway Administration regarding the proposed use. Upon approval, Right of Way Office of Airspace will submit applications to the AAC for their recommendation to the CTC for review and approval.

Depending on the complexity of the project, applicants can expect a six-month or less review period for simple projects and up to a year review period for complicated projects. Applicants are encouraged to keep in contact with their respective District Transit Representative.

VI. Sample Conditions

By completing and signing the application, the public entity certifies it has provided complete information to Caltrans to process the application properly to lease airspace and agrees to the following general conditions: (Any exception to these conditions will be based on a case-by-case review of the proposed use).

- (1) that submitting this application is not any guarantee or obligation for Caltrans to grant use of the airspace; that any processing or appraisal fees are not refundable;
- (2) that the public entity shall have an appraisal prepared either by Caltrans or the public entity at Caltrans' option. The appraisal will be subject to Caltrans' approval.
- (3) that the public entity is responsible for any costs related to design, engineering, appraisal, seismic, or environmental work and such costs are not refundable or recoverable if the application is denied;
- (4) that Caltrans may request additional information in reviewing the application; that the public entity will, if granted requested rights, use this land and space for the public's benefit to relieve congestion or improve the efficiency or connectivity of its transit services;
- (5) that it will comply with all Caltrans conditions and policies now or in the future on the use of airspace; that the public entity will properly maintain this property, which includes prohibiting the storage or transport of any hazardous or flammable materials;
- (6) that any incidental costs for development in the future or relocation costs will be the sole responsibility of the public entity;
- (7) that the public entity will be responsible for meeting all building and engineering standards necessary for seismic, passenger and highway safety;
- (8) that it will maintain full liability insurance and ensure public safety, including but not limited to, proper lighting, security, signs, fencing, walkways, storm drainage, and ADA compliant facilities during the use of these properties;
- (9) that the public entity will charge no more for passenger parking than is necessary to recover operational and maintenance use costs and will set aside certain space for highway maintenance;

VI. Sample Conditions (Continued)

(10) that the public entity will permit Caltrans immediate access to the land or space for maintenance of highways and structures, including retrofit and reconstruction, if necessary, or during any emergencies;

(11) that to obtain a nominal rental charge, the public entity must clearly demonstrate there is a positive congestion relief or otherwise be required to pay fair market rate for rent;

(12) that the public entity understands that restrictions may be placed on their other properties, if they substitute the use from their property to Caltrans property;

(13) that the public entity, if granted access by Caltrans, does not have any exclusive use, rights or control of the land and space. Caltrans will retain rights as described in the lease or other written agreement;

(14) the public entity understands the lease agreement or other written agreement covering the use of Caltrans property will have additional conditions and requirements.

(15) the public entity must disclose use of and interest they may have in any other properties, within the vicinity of subject applicant owns, leases, controls, or has interest.

Appendix A: Definitions

Airspace: It can be defined as property within the right of way limits of an existing operating highway that is capable of other development without interference with the operation and foreseeable future expansion of the transportation corridor without endangering the traveling public. Airspace may consist of the following: surface rights under a viaduct, space above traveled lanes, space within a loop of an interchange, space between main lanes and on and off ramps, and areas in cut or filled slopes.

Airspace Advisory Committee: A committee of real estate professionals assembled to advise the CTC and Caltrans on right-of-way matters.

Appraisal: The appraisal of fair market rent or lease rate will be prepared by the applicant agency with instructions to the appraiser agreed to by Caltrans and the applicant agency. The valuation of the fair market rent shall be subject to Caltrans' approval.

Caltrans: The California Department of Transportation.

Commission: The California Transportation Commission.

Positive Congestion Relief: A project that has a positive benefit to congestion relief.

District Airspace Review Committee: A committee composed of Caltrans representatives from Traffic Operations, Right of Way, Landscape Architect, Project Development, Maintenance, Structures, Hydraulics, and the State Fire Marshall. Additional programs may be included if the program is affected by the proposed use.

Fair Market Lease Rate: The highest lease rate estimated in terms of money which the leased premises, excluding improvements constructed by Tenant thereon, would bring if exposed for lease in the open market, with a reasonable time allowed to find a tenant, leasing with full knowledge of the purpose and uses to which the leased premises is being put and the restrictions on use contained in the lease. It is important to note that this lease rate would be subject to the standard lease conditions leasing in the open market, not the lease or agreement under the below market rent proposal for new mass transit facilities.

Lease or Other Written Agreement: This is an agreement between Caltrans and the public mass transit agency as to the approved facility for the airspace site. These agreements can include leases, joint-use agreements, cooperative agreements, maintenance agreements, encroachment permits and combination thereof depending on the complexity of the project. Leases need to be used for sites in the existing airspace inventory. Other written agreements referenced need to be utilized for uses in the operating right of way, such as actual transit routes and fixed guideways.

Lease Time Period: The lease period will be up to 99 years.

Public Entity: For purposes of these guidelines, it means the public mass transit agency.

Appendix B: District Transit Representative Roster
Caltrans District Offices are listed as follows:

		<u>PUBLIC #</u>	<u>MAIL</u>
District 1 - Eureka District Airspace Rep	<u>Gen Info</u> Michael Baker	(707)445-6600 (530)741-5135	DISTRICT 1 - EUREKA 1656 UNION STREET (95501) P.O. BOX 3700 EUREKA, CA 95502-3700
Transit Rep-fax (8) 538-5869	Michele Fell	(707)445-6333	
District 2 - Redding District Airspace Rep	<u>Gen Info</u> Michael Baker	(530)225-3426 (707)741-5135	DISTRICT 2 - REDDING 1657 RIVERSIDE DRIVE (96001) P.O. BOX 496073 REDDING, CA 96049-6073
Transit Rep-fax (8) 442-3578	Deborah Pedersen	(530)225-3259	
District 3 - Marysville District Airspace Rep	<u>Gen Info</u> Michael Baker	(530)741-4211 (530)741-5135	DISTRICT 3 - SAC. AREA OFF. 703 "B" STREET (95901) P.O. BOX 911 MS 41 SACRAMENTO, CA 95901
Transit Rep-fax (916) 323-7669	Wayne Schnell	(530)741-4025	
District 4 - Oakland District Airspace Rep	<u>Gen Info</u> Marta Bayol	(510)286-4444 (510)286-5476	DISTRICT 4 - OAKLAND 111 GRAND AVENUE (94612) P.O. BOX 23660 OAKLAND, CA 94623-0660
Transit Rep-fax (8) 541-5559	Wade Green/Tom McDonnell	(510)286-5541	
District 5 - San Luis Obispo District Airspace Rep	<u>Gen Info</u> Jerry Janigian	(805)549-3111 (559)488-7325	DISTRICT 5 - SAN LUIS OBISPO 50 HIGUERA STREET SAN LUIS OBISPO, CA 93401-5415
Transit Rep-fax (8) 629-3077	Tim Rochte	(805)549-3130	
District 6 - Fresno District Airspace Rep	<u>Gen Info</u> Jerry Janigian	(559)488-4020 (559)488-7325	DISTRICT 6 - FRESNO 1352 W. OLIVE AVENUE (93728) P.O. BOX 12616 FRESNO, CA 93778-2616
Transit Rep-fax (8) 421-5875	Marc Birnbaum	(559)488-4260	
District 7 - Los Angeles District Airspace Rep	<u>Gen Info</u> David Patler	(213)897-3656 (213)897-4820	DISTRICT 7 - LOS ANGELES 120 S. SPRING STREET LOS ANGELES, CA 90012
Transit Rep-fax (8) 647-0678	Linda Wright	(213)897-0213	
District 8 - San Bernardino District Airspace Rep	<u>Gen Info</u> David Patler	(909)383-4561 (213)897-4820	DISTRICT 8 - SAN BERNARDINO 464 WEST 4 TH STREET SAN BERNARDINO, CA 92401
Transit Rep-fax (8) 670-7934	Gary Green	(909)383-5926	
District 9 - Bishop District Airspace Rep	<u>Gen Info</u> Jerry Janigian	(760)872-0601 (559)488-7325	DISTRICT 9 - BISHOP 500 S. MAIN STREET BISHOP, CA 93514
Transit Rep-fax (8) 627-0678	Brad Mettam	(760)872-0689	
District 10 - Stockton District Airspace Rep	<u>Gen Info</u> Jerry Janigan	(209)948-7543 (559)488-7325	DISTRICT 10 - STOCKTON 1976 E. CHARTER WAY (95205) P.O. BOX 2048 STOCKTON, CA 95201
Transit Rep-fax (8) 423-3631	Carlos Yamzon	(209)948-3975	
District 11 - San Diego District Airspace Rep	<u>Gen Info</u> Fred Birchmore	(619)688-6678 (619)688-3351	DISTRICT 11 - SAN DIEGO 2829 JUAN STREET (92110) P.O. BOX 85406 SAN DIEGO, CA 92186-5406
Transit Rep-fax (8) 688-4299	Bill Figge	(619)688-6954	
District 12 - Orange County District Airspace Rep	<u>Gen Info</u> David Patler	(949)724-2000 (213)897-4820	DISTRICT 12 - ORANGE COUNTY 3337 MICHELSON DRIVE, SUITE 380 IRVINE, CA 92612
Transit Rep-fax (8) 655-2592	Hector Rangel	(949)724-2731	

**Leasing to Public Entities
Streets & Highways Code 104.12(b)**

Site No: _____ (FOR RIGHT OF WAY USE ONLY)

**Public Entity Application for Airspace Agreements for New Mass Transit Facilities for Traffic
Congestion Relief**

Section I: General Information

A. Public Entity:

Mailing Address:

CEO or Director:

Title:

Phone:

FAX:

Email:

B. Partnering Public Entity:

Mailing Address:

CEO or Director:

Title:

Phone:

FAX:

Email:

C. For Additional Information: Contact Person

Name:

Title:

Mailing Address:

Phone:

FAX:

Email:

D. Caltrans District:

Name:

Title:

Mailing Address:

Phone:

FAX:

Email:

Public Entity Application--Continued

Section I: General Information

E. Total Estimated Cost of Project:
F. Project Start Date:
G. Construction Start Date:
H. Project End Date:
I. Proposed Duration of Lease Start Date: End Date:
J. Describe the geographical area you serve. (Topography, square miles, communities to be served, describe other land developments that might complement or conflict with proposed project. Provide a map or diagram.) <input type="checkbox"/> Major urbanized area with a population over 200,000. <input type="checkbox"/> Medium urbanized area with a population between 50,000 and 200,000. <input type="checkbox"/> Non-urbanized area with a population below 50,000.

Public Entity Application—Continued

Section II: Project Information

A. Project Site and Use Information:

(Identify land or airspace within Caltrans right of way and describe the proposed mass transit facility use. Also indicate whether there will be any commercial vendors, subleases, or subcontractors and the nature of their business. Provide a map with proposed or existing service defined in urbanized area boundaries, if possible).

- ☐ New Bus Route
- ☐ New or Expanded Park and Ride Lot for Mass Transit Patrons
- ☐ Downtown Commuter Bus Parking Facility during the day
- ☐ Other Mass Transit Facility:_____

C. What are the benefits of this proposed site?

Public Entity Application—Continued

Section II. Project Information

D. What other sites were considered and why were they rejected in favor of this proposed site?

E. Describe any other properties, within the vicinity of this airspace site that you own, lease, control or have interest:

Public Entity Application—Continued

Section II: Project Information

F. Brief description of organizational capacity to carry out this project:

G. Project Scope and Purpose:

Provide a description of the project's scope and purpose.

Public Entity Application--Continued

Section II. Project Information

F. Describe the current transit system and how this new project will positively result in congestion relief. (Include a brief description of the current system and the new system changes. Describe the congestion levels and commute times of the existing corridor in which this project is proposed. Cite and provide any studies and/or surveys that support your claim or estimates.)

G. Public Entity Application--Continued

Section III: Project Benefits

A. Describe how the proposed project will provide additional transportation benefits to more transit riders. (e.g. expansion of service area or hours, increase frequency of trips, ridership survey results, reduced travel time for riders, increased access and convenience to riders). Provide studies or surveys.

Public Entity Application---Continued

Section VII. Signatures of Applicant Agencies

Chief Executive Officer or Director of
Public Entity

(This person must be the CEO or Director of the public entity and have authority to sign agreements or contracts for the public entity.)

Date

Chief Executive Officer or Director of
Partnering Public Entity (If Applicable)

(This person must be the CEO or Director of the public entity and have authority to sign agreements or contracts for the public entity.)

Date

Memorandum

To : CHAIR AND MEMBERS
Airspace Advisory Committee

Date : March 17, 1997

File No. : AIRSPACE
03-SAC-051-04

From : DEPARTMENT OF TRANSPORTATION

Subject : Approval of Terms and Conditions - Inter-Modul Transit Partners and Buzz Oates Enterprises

RECOMMENDATION:

It is recommended that the Airspace Advisory Committee (AAC) consider and recommend to the California Transportation Commission (CTC) that it approve terms and conditions of an airspace lease on the above referenced parcel with Inter-Modul Transit Partners and Buzz Oates Enterprises. It is in the best interest of the State to lease by direct negotiations and not bid this publicly to optimize rental income by leasing to adjacent owners. The Airspace parcel will be improved by the proposed lessees, and the lease will compliment development on a nearby parcel.

BACKGROUND:

On November 14, 1995, the AAC approved entering into direct negotiations with Inter-Modul Transit Partners and Buzz Oates Enterprises on this property. Proposed terms and conditions were presented to the AAC at your meetings on January 8th and 21st, 1997, with draft changes mailed for comment on March 3, 1997.

The subject property contains 121,495 net square feet and is located beneath and adjacent to the Capital City Freeway viaduct, west of 30th Street, east of 29th Street, south of R Street and north of S Street in the midtown area of the City of Sacramento.

The parcel is currently vacant and has been included in the District 03 bid offerings for the last four years. There were no meaningful proposals received from this exposure. The proposed lessees indicated their interest at each of the last two bid offerings and submitted proposals for terms longer than those offered. The AAC previously approved terms for a lease/option on this parcel with one of the proposed lessees on August 7, 1990. On May 14, 1991, the State sent a letter to the proposed lessee stating that it did not appear to be in the State's best interest to finalize the lease/option due to seismic retrofit concerns and a changing market.

One of the proposed lessees developed a multi-story office building adjacent to the east of the subject known as Farmers Market III. They have plans to build another office building Farmers Market IV (FMIV) northeast of the subject and propose to improve the subject parcel for surface parking with provisions to build a parking structure at a later date, if needed, to provide off-site parking for potential additional office development to the east and west of the subject.

PROPOSED TERMS AND CONDITIONS:

The terms and conditions contained in this proposal are intended to meet the requests of the AAC from earlier meetings.

Agreement has been reached with Inter-Modal Transit Partners and Buzz Oates Enterprises based on the following terms:

- | | |
|----------------------|---|
| Option: | \$10,000 per year for 2 years. \$30,000 for the third year, if necessary. Payments are due lump sum at beginning of year(s). No prorations or credit if exercised early. |
| Term: | 55 years. |
| Area: | 121,495 square feet. |
| Use: | Parking. |
| Consideration: | \$10,000 per month for initial one year of lease. Then \$13,500 per month. |
| Rate of Return: | 9.7% 1st year of lease, 13% starting in year 2 of lease. |
| Adjustments to rent: | <ol style="list-style-type: none">1. Ground rent will be adjusted every 5 years and will be indexed to the greater of (1) the percentage increase in the office rents from the lessee's proposed office building as compared to the initial base office rents, versus, (2) the percentage increase in the Consumer Price Index with a floor of 1% per year and a ceiling of 3% per year.2. If the parcel is ultimately developed with a parking structure, rent will be reduced at the start of construction by 50% for a period not to exceed 12 months or the period of construction, whichever is shorter. The base rent will then be reinstated and increased by \$5,000 per month for the |

balance of the lease term. The rent will be subject to the adjustment noted in (1) above, and any subsequent reevaluations. If the multi-level structure is developed after the 15th year, a formal reevaluation would occur taking into consideration the additional parking capacity and current fair market value at the time of the reevaluation. The rent established through any reevaluation process would then also be subject to #1 above. In addition the lease also includes provisions for reevaluation of rent at years 30 and 45 of the lease term.

3. Prior to construction of any parking structure improvements under the freeway, a project report for these improvements will be approved by Caltrans. This is to comply with Department's seismic policy for structures under freeways.

ANALYSIS:

It is in the State's best interest to lease this parcel to the proposed lessees to achieve the highest and best use and the greatest return to the State. Approval is hereby requested.


SCOTT ATKINS
Airspace Functional Manager
Right of Way Program

Attachments

AIRSPACE APPRAISAL SUMMARY

Location of Property and Area Description:

This parcel is located on the periphery of the "Old City" section in the southeasterly portion of Central Sacramento. The neighborhood is comprised of a combination of uses. The immediate area, however, is primarily business offices.

Property Description:

The subject property by Assessor's map contains 134,944 s.f. and is the block bounded by R and S Streets and 29th and 30th Streets. The net usable portion is estimated as 121,495 s.f. The site is vacant and enclosed with chain link fencing. Road approaches are located at each of the four corners. Approximately 50% of the parcel is encumbered by Highway 51 (formerly I-80) viaduct. Vertical clearance ranges from 22 feet to 26 feet. The bridge piers physically occupy 825± s.f.

Improvements:

Minor landscaping, chip and oil seal surface as well as perimeter fencing which do not contribute to value.

Zoning:

This parcel is designated "TC" Transportation Corridor by Sacramento City zoning ordinance. Any proposed use, however, must ultimately comply with the development standards as set forth by the Alhambra Corridor Special Planned Development and Design Guidelines.

Highest and Best Use:

Development for parking in conjunction with an adjoining office development.

Estimated Value and Date of Value:

The estimated value based on the Palmer Groth & Petka Report dated April 26, 1996, and amended September 10, 1996, is \$1,234,000.

Basis for Estimated Land Value:

The value of the subject as an independent parking lot was estimated using a Residual Analysis of a proforma parking lot. The plottage value was then estimated utilizing an Economic Analysis of "Before and After" models to establish the maximum amount that a developer would be willing to invest in the land necessary to construct an off-site parking facility in support of an office building project. This is in essence, a value derived from a feasibility analysis.

Information Regarding the Appraised Value of the Parcel:

The parcel was appraised by the firm of Palmer, Groth & Petka with offices in Portland, Sacramento, Seattle, Bellevue, Tacoma, and Vancouver. The firm has extensive experience in appraising commercial and industrial properties. The appraiser who prepared the original report is certified by the State of California and a Member of the Appraisal Institute (MAI) candidate. The appendage to the original report (which was requested by Caltrans) more fully addressed the plottage issue and was prepared by the principal of the Sacramento office who is a MAI and Certified General Real Estate Appraiser.

Memorandum

To: CHAIR AND MEMBERS
Airspace Advisory Committee

Date: March 28, 2001

File: AIRSPACE
NR-SAC-051-0004

From: DEPARTMENT OF TRANSPORTATION
Division of Right of Way
Airspace

Subject: Request to Amend the Lease Terms for a Option to Lease for a Directly Negotiated Lease with Ravel Properties for Parking on a 121,495 \pm Square Foot Parcel Located Beneath the Fort Sutter Viaduct of Highway 51 in Sacramento

RECOMMENDATION:

It is requested that the Airspace Advisory Committee (AAC) recommend approval to the California Transportation Commission (CTC) of a request to amend the lease terms for an existing Option to Lease.

SUMMARY

The subject is located beneath and adjacent to the Fort Sutter Viaduct of State Route 51 in Sacramento. The city block is 121,495 \pm square feet and is bounded on the east by 30th Street, on the west by 29th Street, on the south by S street and on the north by a Regional Transit Light Rail Station.

Caltrans entered into a three-year option beginning June 20, 1997 and obtained a one-year extension last year. The current option expires on June 19, 2001. The Optionee has paid \$100,000 in option fees.

The Optionees propose to develop a multi-story office building northeast of the subject known as Farmers Market IV. Caltrans, through the Department of General Services, has been negotiating with the developer for additional office space. There are three existing multi-story office buildings to the east and northeast of the subject parcel known as Farmers Market I, II, and III that are occupied by Caltrans. The subject parcel would provide parking for the proposed Farmers Market IV development. The proposed lease has not been finalized yet due to the inability to secure the necessary approvals from the Department of Finance, but Caltrans is still pursuing the lease.

The existing office complex's parking is located on an airspace parcel directly to the south of the subject. This two-story parking facility has reached capacity and no longer is able to satisfy daily or hourly parking which has caused a shortage of available parking in the vicinity. Caltrans users and tenants of an adjacent office building are pleading to obtain additional parking and have

inquired in regards to the development schedule of the subject parcel.

Airspace Advisory Committee

March 28, 2001

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The Optionee has indicated a willingness to exercise their option to lease and develop a parking facility, without securing the Caltrans commitment to lease their proposed office building, but have requested a modification of lease terms until the new office development is built and occupied (see enclosed letter.)

The Optionee would develop the unimproved site to surface parking, including an inter-modal bus transfer element (the subject parcel is bounded on the north by an existing light rail station) at a cost of approximately \$750,000 (see enclosed plans and proforma/cost budget.)

The amended lease terms would reduce the rent to \$30,000 per year against 100% of the net income until a new office building is constructed and occupied. The Optionee controls vacant parcels suitable for office on both the easterly and westerly side of the subject airspace parcel. When a building is constructed on either parcel, the existing approved lease terms would be reinstated (see enclosed March 17, 1997 AAC submittal.)

Another possible scenario that is currently being discussed is the placement of modular office trailers while construction occurs on the proposed office building. Under this scenario, a portion of the subject parcel would be encumbered by modulars and the balance of the parcel would supply parking. Once the building is ready for occupancy, the modulars would be removed and the parcel would be fully developed into parking. If this scenario occurs, the rent would escalate to 50% of the lease terms previously approved by the AAC/CTC with full reinstatement at occupancy of the adjacent building.

The highest and best use for this parcel continues to be plottage to the adjacent developer-owned parcels. Although independent development is feasible, due to the costs of the needed improvements and lack of income to generate profits to a developer, the lease rent would be significantly lower if the parcel was put out to bid for parking use. The "plottage" value will eventually be realized once another adjacent building is constructed but in the meantime an underutilized parcel will be improved while satisfying Caltrans and neighborhood immediate needs and allowing for Caltrans or another state agency's future needs.

This proposed amendment is still believed to represent a fair market return to the State and it is in the State's best interest to lease this parcel to the proposed lessees to achieve the highest return to the State.

PETER SCHULTZE

Senior Right of Way Agent

Airspace Program
Division of Right of Way

Enclosure

EXISTING LIGHT RAIL STATION

EXISTING SIDEWALK

EXIST. LIGHT RAIL
HANDICAP RAMP

'R' STREET

BUS PASSENGER LOADING / UNLOADING PLATFORM

LANDSCAPE

CROSSING GATE
ARMS

TYPICAL STANDARD STALL (8' x 16')

PROPOSED SURFACE PARKING LOT
± 263 PARKING STALLS (TOTAL)

TYPICAL ELEVATED
FREEWAY SUPPORT

TYPICAL COMPACT STALL (7.5' x 16')

DASHED LINE INDICATES
ELEVATED FREEWAY ABOVE

BUS PASSENGER LOADING / UNLOADING PLATFORM

AUXILIARY DRIVE

29th STREET

ONE WAY STREET

30th STREET

ONE WAY STREET

EXISTING FARMERS MARKET I
(Office)

ONE WAY EXIT →

TRAFFIC CONTROL
SPIKES

ONE WAY ENTRANCE →

TRAFFIC GATE

EXISTING SIDEWALK TYP.

'S' STREET

PROPOSED SURFACE PARKING LOT



Mach 22, 2001

Mr. Pete Schultze
Senior Right of Way Agent
Airspace Program Manager
CalTrans Headquarters
Right of Way Dept - Airspace
1120 N Street, Room 50100
Sacramento, CA 95814

RE: Airrights Parking Lease

Dear Pete:

In accordance with our recent conversation regarding exercising our option to sign the lease with (Airspace) CalTrans for the space under the freeway located between 28th, 30th, R and S Streets in Sacramento, we respectfully would like to propose the following.

Upon approval on the April 11, 2001 Airspace Board Meeting, in accordance with the following terms, our partnership INTER-MODUL TRANSIT PARTNERS, a California General Partnership will sign the Airspace Ground Lease.

Our partnership will commence all architectural drawings and will complete all the improvements within nine (9) months of lease execution to make this a fully functioning parking facility, including an Inter-Modul Transit Station for Regional Transit. The cost for all improvements will be \$750,870 (please see the enclosed cost analysis).

In addition, our partnership will guarantee CalTrans the higher of \$30,000 per year or 100% of our net income derived from the operation of this site as a parking facility. A proforma and estimated operating statement is also enclosed. (Net income is defined as all proceeds collected over and above the operational costs. In addition, there will be no overhead charged in the operation of this parking facility and is reflective in these numbers).

The lease terms and conditions as set forth in the new lease we will be signing will trigger or go into full effect upon occupancy of the building we have defined as Farmers IV, which we have resumed dialogue with CalTrans to lease approximately 125,000 square feet.

Pete, in summation, our partnership entered into an option agreement with "Airspace" to provide parking for the FM IV building that has been designed and allocated for CalTrans.

The process of obtaining the CalTrans clearance to lease the fourth building (FM IV) has taken more time than expected, by all parties.

Mr. Pete Schultze

March 22, 2001

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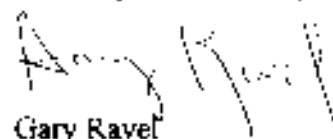
We are encouraged, however, based on a recent meeting with the Deputy Director of CalTrans that the transaction to lease our building is moving forward but currently are unable to pay the full amount of the lease, as that value only equates to the parking lot being integral to a completed building, with the new building subsidizing any offsets from the "Airspace" ground lease at the full lease amount.

To date, our partnership, INTER-MODUL TRANSIT PARTNERS has paid \$100,000 in option money to "Airspace" and are prepared to invest \$750,000 additional dollars to develop the parking lot including the Inter-Modul Transfer Station within the next nine (9) months.

We have been diligent and look forward to a long term relationship with "Airspace."

Thank you

Sincerely,

A handwritten signature in dark ink, appearing to read "Gary Ravel", written over a horizontal line.

Gary Ravel
General Partner

Enclosures

Incl Schultze originals

Cal Trans Parking Lot Development Proforma and Estimated Operating Statement

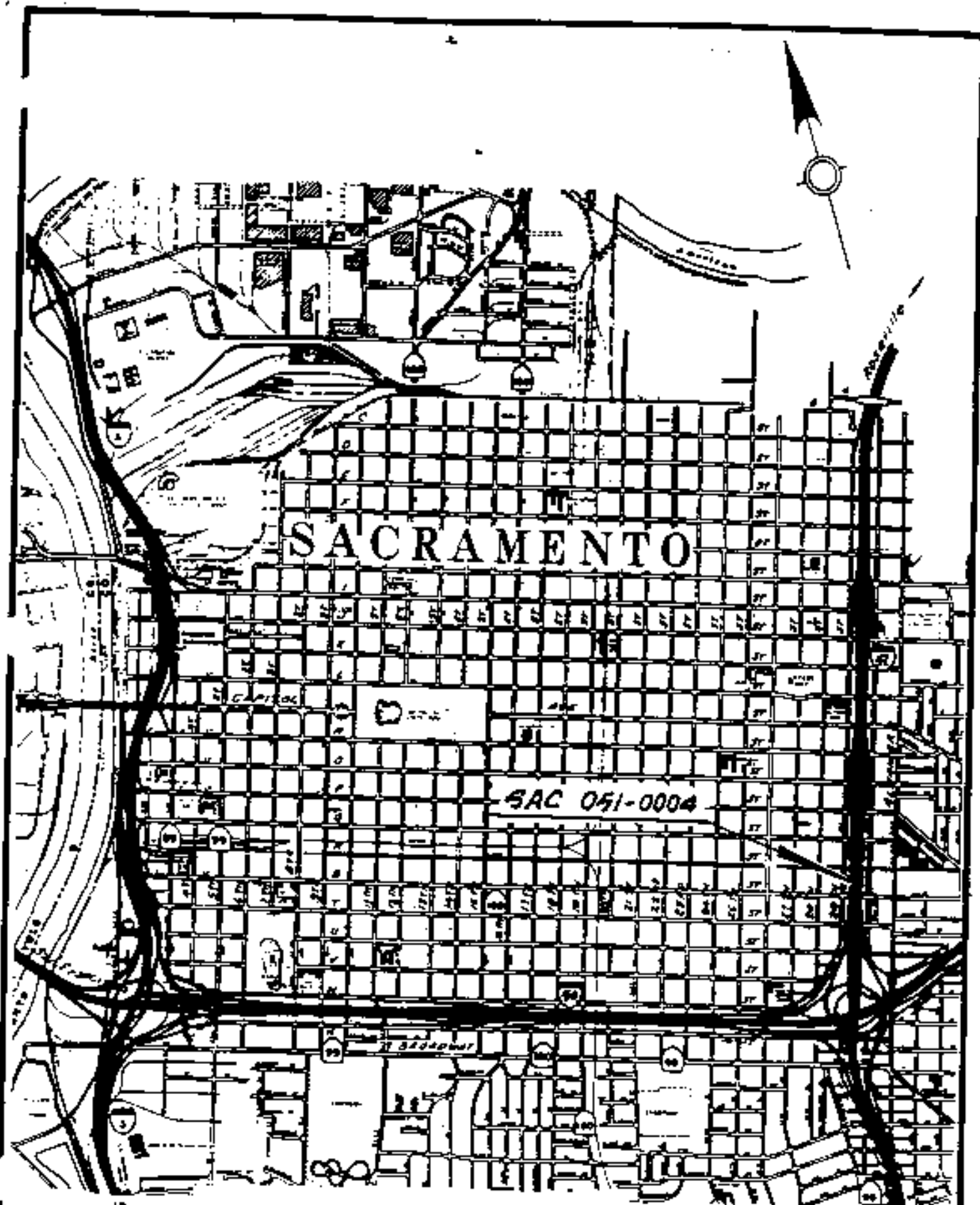
Development Cost Budget (Approx 102,000 sf Site)

	<u>Costs</u>
General Contractor Hard Costs	
Demolition	\$ 19,800
Clear & Grubb	\$ 8,000
Underground (storm drain)	\$ 41,600
Grading & Paving	\$ 198,000
Concrete Curbs/ Sidewalks	\$ 68,000
Wrought Iron Fencing	\$ 32,000
Landscaping	\$ 60,150
Ticketing Machines & Motorized Gates	\$ 24,000
Electrical Lighting & Power	\$ 84,320
General Conditions/Overhead & Profit	\$ 92,000
Total Hard Costs	\$ 625,870
 Soft Costs	
Architectural and Engineering	\$ 38,500
Construction Bond	\$ 10,000
Legal and Accounting	\$ 4,000
Financing Fees	\$ 10,000
Construction Interest (4 to 5 months)	\$ 20,000
Permits and Fees	\$ 17,500
Contingency	\$ 25,000
Total Soft Costs	\$ 125,000
 Total Development Costs	 \$ 750,870

Cal Trans Parking Lot Development Proforma and Estimated Operating Statement

Cal Trans Parking Lot Proforma Economics

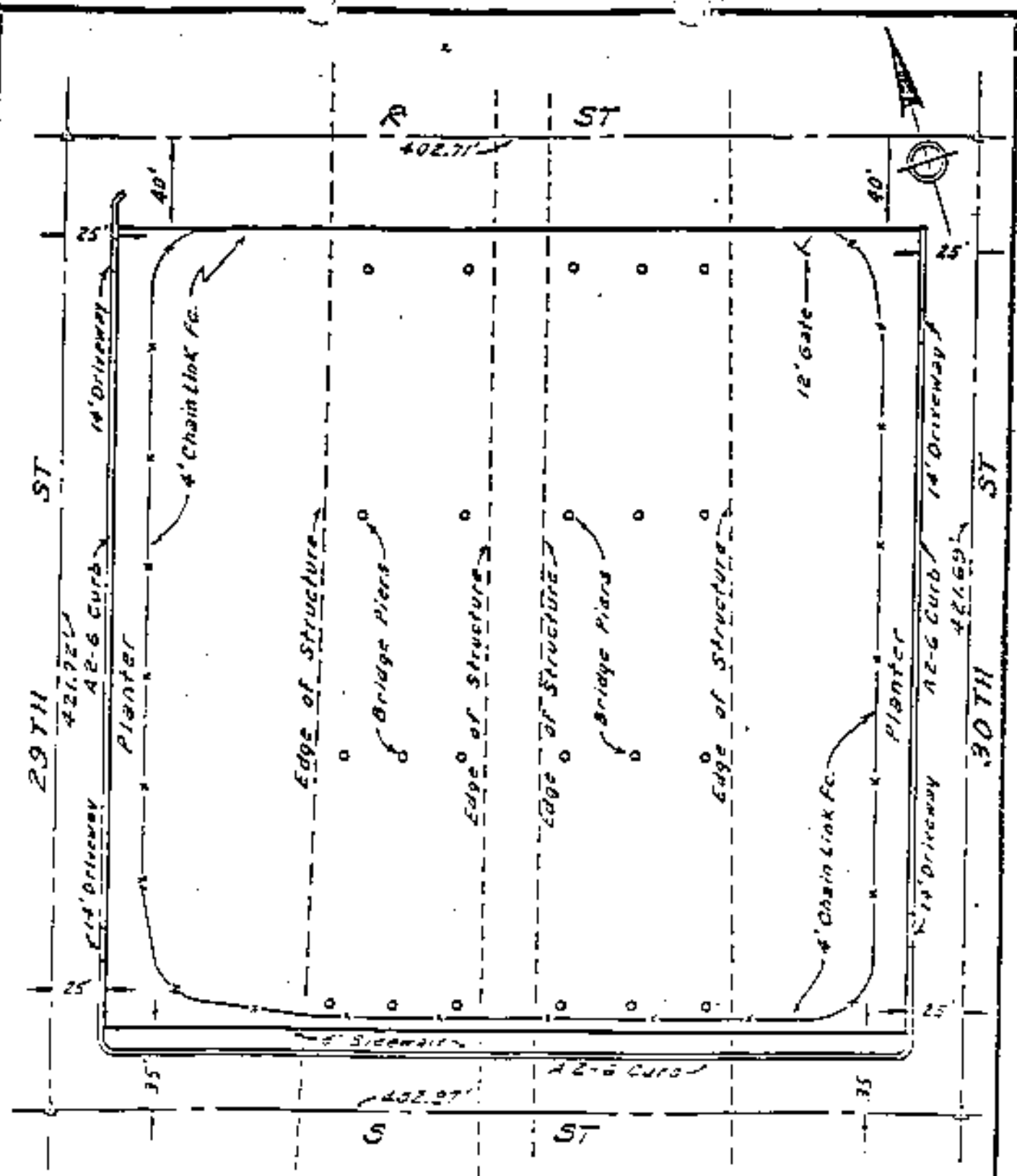
	Annual	Per Space
Maximum Potential Parking Income		
263 Spaces @ \$50 Each	\$ 157,800	\$ 600.00
State (Cal Trans) Employees pay monthly parking costs		
Parking Lot Operational Expenses		
Electricity	\$ 9,000	\$ 34.22
City Sewer & Water	\$ 4,200	\$ 15.97
Landscaping	\$ 7,200	\$ 27.38
General Maintenance	\$ 5,400	\$ 20.53
Part-time Employee	\$ 15,600	\$ 59.32
Administrative Overhead	\$ 4,800	\$ 18.25
Property Taxes	\$ 10,000	\$ 38.02
Subtotal Parking Expenses	\$ 56,200	\$ 213.69
Parking Improvement Costs		
Amortization of improvements \$7831 per month	\$ 93,972	\$ 357.31
\$750,000 Total hard and soft costs (9.5% for 15 years)		
CalTrans Ground Rent	\$ 30,000	\$ 114.07
Total Parking Costs	\$ 180,172	\$ 1.594
Net Total Parking Income	\$ (22,372)	\$ (0.198)




(FLA 80-21)

SAC 051-0004

PAR. NO.



GROSS AREA: 122,320 SF
 LESS PIER AREA: 825 SF
 NET AREA: 121,495 SF

BRIDGE PIERS SHOWN THUS: 
 MAXIMUM and MINIMUM CLEARANCE: 26' and 22'

SAC 051-0004			
FLA 20-21			
PM NO. 9514			
REV	BY	DATE	APP
03	SAC 20	3.0	